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10/722,284

11/25/2003

Jose E. Korneluk

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05/30/2006

MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL, FL 33322

EXAMINER

DEAN, RAYMOND S

ART UNIT

PAPER NUMBER

2618

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/722,284 | Applicant(s) KORNELUK, JOSE E. | |
| | Examiner Raymond S. Dean | Art Unit 2618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 22, 2006 has been entered.

Response to Arguments

2. Applicant's arguments filed March 22, 2006 have been fully considered but they are not persuasive.

Childress teaches a typical trunked mobile radio system. Typical mobile users in such a system will depress the push-to-talk (PTT) button on their mobile devices at various times. Consider the following scenario: A user, desiring to make a transmission, presses the PTT button which causes an audible beep, which is a PTT indicator, indicating to the user that he or she may not provide audio for transmission (See Column 12 lines 19 – 33). The same user can at a later time, which is subsequent to the audible beep, press the PTT again to initiate or establish a connection.

The user of the mobile device in Childress can also receive an audible beep after the PTT button is pressed when the repeater is not available. The repeater enables

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calls to be maintained thus if the repeater is off the air or not available there will be an absence of an established call (See Column 12 lines 13 – 36).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5 – 7, 11 – 12, 16, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampe (5,568,511) in view of Childress et al. (4,658,435) and in further view of Spayth (4,013,958).

Regarding Claim 1, Lampe teaches a method on a wireless device for providing a push-to-talk indicator, comprising: initiating, by the wireless device, a connection setup procedure with a wireless network (Column 6 lines 48 – 50); receiving a message from the wireless network indicating establishment of a connection in response to initiating the connection setup procedure (Column 6 lines 48 – 54, the channel access signaling that provides allocation of the frequency channel and the time slot is the message received from the network); and second indicating, via a push-to-talk indicator, subsequent to receiving the message indicating establishment of the connection, that the user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the push-to-talk indicator is the alert tone).

Lampe does not teach first indicating, via a non-audible push-to-talk indicator, that a user of the wireless device may not provide audio for transmission and initiating, by the wireless device, subsequent to the first indicating, a connection setup procedure with a wireless network.

Childress teaches first indicating, via a push-to-talk indicator, that a user of the wireless device may not provide audio for transmission (Column 12 lines 19 – 33, the audible beep is the push-to-talk indicator) and initiating, by the wireless device, subsequent to the first indicating, a connection setup procedure with a wireless network (Column 1 lines 13 – 31, Column 12 lines 19 – 33, consider the following scenario: a user, desiring to make a transmission, presses the PTT button which causes an audible beep, which is a PTT indicator, indicating to the user that he or she may not provide audio for transmission, the same user can at a later time, which is subsequent to the audible beep, press the PTT again to initiate or establish a connection).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the push-to-talk indicator taught by Childress in the transceiver of Lampe for the purpose of enabling said transceiver to know when communication channels are available for transmission thus preventing said transceiver from transmitting when there are no idle communication channels as taught by Childress.

Lampe in view of Childress does not teach a non-audible push-to-talk indicator.

Spayth teaches a non-audible push-to-talk indicator (Column 11 lines 7 – 8, lines 21 – 25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the non-audible push-to-talk indicator of Spayth as an alternative means for indicating to the user in the Lampe in view of Childress system that he/she can/cannot transmit on a channel.

Regarding Claim 5, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claim 1. Lampe further teaches the sub-step of sending a call request to the wireless network (Column 6 lines 48 – 50).

Regarding Claim 6, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claim 1. Lampe further teaches detecting the user pushing the push-to-talk button; and receiving audio from the user for transmission (Column 7 lines 28 – 39).

Regarding Claim 7, Lampe teaches a method on a wireless device for providing a push-to-talk indicator, comprising: first indicating, via a push-to-talk indicator, that a user of the wireless device may provide audio for transmission in the absence of an established call (Column 6 lines 48 – 57); receiving a request to join a connection setup procedure with a wireless network subsequent to the first indicating (Column 6 lines 48 – 50, the user can receive the request to join at a later time after the alert tone); receiving a message from the wireless network indicating establishment of a connection subsequent to receiving the request to join the connection (Column 6 lines 51 – 54, the channel access signaling that provides allocation of the frequency channel and the time slot is the message received from the network); receiving audio from the wireless network originating from another user on another wireless device subsequent to

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receiving the message indicating establishment of the connection (Column 6 lines 48 – 57, the user can be any user); second indicating, via a push-to-talk indicator, while receiving the audio, that the user of the wireless device may not provide audio for transmission (Column 4 lines 10 – 12, typical trunked radio systems comprising PTT will generate a talk prohibit tone or alert if the user presses the PTT button while receiving audio); detecting the passage of a predefined period of time commencing upon completion of receiving audio from the wireless network subsequent to receiving audio from the wireless network (Figure 2, Column 5 lines 58 – 66, the release window is the predefined time); and third indicating, via the push-to-talk indicator, subsequent to detecting the passage of the predefined period, that the user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the push-to-talk indicator is the alert tone, when the user presses the PTT a plurality of times there will be plurality of alerts indicating to the user that the wireless device may provide audio for transmission).

Lampe does not teach first indicating, via a non-audible push-to-talk indicator, that a user of the wireless device may not provide audio for transmission in the absence of an established call and second indicating.

Childress teaches first indicating, via a push-to-talk indicator, that a user of the wireless device may not provide audio for transmission in the absence of an established call and second indicating (Column 12 lines 13 – 36, the user of the mobile device in can also receive an audible beep after the PTT button is pressed when the repeater is

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not available, the repeater enables calls to be maintained thus if the repeater is off the air or not available there will be an absence of an established call).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the push-to-talk indicator taught by Childress in the transceiver of Lampe for the purpose of enabling said transceiver to know when communication channels are available for transmission thus preventing said transceiver from transmitting when there are no idle communication channels as taught by Childress.

Lampe in view of Childress does not teach a non-audible push-to-talk indicator.

Spayth teaches a non-audible push-to-talk indicator (Column 11 lines 7 – 8, lines 21 – 25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the non-audible push-to-talk indicator of Spayth as an alternative means for indicating to the user in the Lampe in view of Childress system that he/she can/cannot transmit on a channel.

Regarding Claim 11, Lampe teaches a push-to-talk wireless device including a push-to-talk indicator, comprising: a processor for initiating a connection setup procedure with a wireless network (Column 4 lines 17 – 19, Column 7 lines 28 – 39); a receiver for receiving a message from the wireless network indicating establishment of a connection (Column 7 lines 35 – 39, the channel access signaling that provides allocation of the frequency channel and the time slot is the message received from the network); a push-to-talk button for pushing when the user desires to provide audio for

transmission (Column 7 lines 33 – 39); and a push-to-talk indicator for indicating that the user of the wireless device may provide audio for transmission after the connection has been established and the message is received from the wireless network (Column 7 lines 33 – 39, the alert tone is the push-to-talk indicator).

Lampe does not teach indicating that the user of the wireless device may not provide audio for transmission prior to receiving the message indicating establishment of the connection, if another user of the connection is presently using the connection to provide audio, or before initiating a connection setup procedure.

Childress teaches indicating that the user of the wireless device may not provide audio for transmission prior to receiving the message indicating establishment of the connection, if another user of the connection is presently using the connection to provide audio (Column 12 lines 19 – 37, the audible beep is the indicator, the audible beep will occur if the repeater is not available or the channels are busy, a check of the channels is made to determine if said channels are busy i.e. connections already established, if the connections are already established there will be an audible beep indicating that the user cannot transmit thus eliminating a message indicating the establishment of a connection, the check occurs prior to the establishment of a connection thus the audible beep indicating that a connection is not available will occur prior to the establishment of said connection).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the indicator taught by Childress in the transceiver of Lampe for the purpose of enabling said transceiver to know when communication channels are

available for transmission thus preventing said transceiver from transmitting when there are no idle communication channels as taught by Childress.

Lampe in view of Childress does not teach a non-audible push-to-talk indicator.

Spayth teaches a non-audible push-to-talk indicator (Column 11 lines 7 – 8, lines 21 – 25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the non-audible push-to-talk indicator of Spayth as an alternative means for indicating to the user in the Lampe in view of Childress system that he/she can/cannot transmit on a channel.

Regarding Claim 12, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claim 11. Lampe further teaches a transmitter for sending a call request to the wireless network when initiating a connection setup procedure with the wireless network (Column 6 lines 48 – 50).

Regarding Claim 16, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claim 11. Lampe further teaches a detector for detecting the user pushing the push-to-talk button and a microphone for receiving audio from the user for transmission (Column 7 lines 28 – 39).

Regarding Claim 20, Lampe teaches a computer readable medium on a wireless device including computer instructions for providing a push-to-talk indicator (Figure 1, Column 7 lines 33 – 39, the microprocessor will run via computer instructions, said instructions are stored in memory device such as a RAM (30)), the computer instructions including instructions for: initiating, by the wireless device, a connection

setup procedure with a wireless network (Column 6 lines 48 – 50); receiving a message from the wireless network indicating establishment of a connection subsequent to initiating the connection setup procedure (Column 6 lines 48 – 54, the channel access signaling that provides allocation of the frequency channel and the time slot is the message received from the network); and indicating, via the push-to-talk indicator, subsequent to receiving the message, that the user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the indicator is the alert tone).

Lampe does not teach indicating, via a push-to-talk indicator, that a user of the wireless device may not provide audio for transmission, initiating, by the wireless device, a connection setup procedure with a wireless network, subsequent to indicating that the user may not provide audio.

Childress teaches indicating, via a push-to-talk indicator, that a user of the wireless device may not provide audio for transmission (Column 12 lines 19 – 33, the audible beep is the indicator), initiating, by the wireless device, a connection setup procedure with a wireless network, subsequent to indicating that the user may not provide audio (Column 1 lines 13 – 31, Column 12 lines 19 – 33, consider the following scenario: a user, desiring to make a transmission, presses the PTT button which causes an audible beep, which is a PTT indicator, indicating to the user that he or she may not provide audio for transmission, the same user can at a later time, which is subsequent to the audible beep, press the PTT again to initiate or establish a connection).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the push-to-talk indicator taught by Childress in the

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transceiver of Lampe for the purpose of enabling said transceiver to know when communication channels are available for transmission thus preventing said transceiver from transmitting when there are no idle communication channels as taught by Childress.

Lampe in view of Childress does not teach a non-audible push-to-talk indicator.

Spayth teaches a non-audible push-to-talk indicator (Column 11 lines 7 – 8, lines 21 – 25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the non-audible push-to-talk indicator of Spayth as an alternative means for indicating to the user in the Lampe in view of Childress system that he/she can/cannot transmit on a channel.

5. Claims 2, 8, 13 – 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampe (5,568,511) in view of Childress et al. (4,658,435) in view of Spayth (4,013,958), as applied to Claims 1, 7, 11, and 20 above, and further in view of Huang (US 2004/0259586).

Regarding Claims 2, 13, and 21, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claims 1, 7, 11, and 20. Childress further teaches indicating, via a push-to-talk indicator, that a user of the wireless device may not provide audio for transmission (Column 12 lines 19 – 33, the audible beep is the push-to-talk indicator).

Lampe in view of Childress and in further view of Spayth does not teach a push-to-talk backlit button.

Huang teaches a backlit button (Section 0021).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the PTT button of Lampe in view of Childress and in further view of Spayth with the backlight circuitry of Huang for the purpose of identifying said button, when using the transceiver in the dark or at night, more easily as taught by Huang.

Regarding Claim 8, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claim 7. Lampe further teaches indicating, via a push-to-talk indicator, whether the user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the push-to-talk indicator is the alert tone).

Lampe in view of Childress and in further view of Spayth does not teach a push-to-talk backlit button.

Huang teaches a backlit button (Section 0021).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the PTT button of Lampe in view of Childress and in further view of Spayth with the backlight circuitry of Huang for the purpose of identifying said button, when using the transceiver in the dark or at night, more easily as taught by Huang.

Regarding Claim 14, Lampe in view of Childress in view of Spayth and in further view of Huang teaches all of the claimed limitations recited in Claim 13. Huang further teaches a backlit button that emits a red colored light (Section 0021, Section 0027 lines 1 – 2).

Regarding Claim 15, Lampe in view of Childress in view of Spayth and in further view of Huang teaches all of the claimed limitations recited in Claim 14. Lampe in view of Childress and in further view of Huang teaches all of the claimed limitations recited in Claim 14. Lampe further teaches indicating that user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the alert tone is the indicator). Huang further teaches a backlit button that emits a green colored light (Section 0021, Section 0027 lines 1 – 2).

6. Claims 3 – 4, 9, and 22 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampe (5,568,511) in view of Childress et al. (4,658,435) in view of Spayth (4,013,958), as applied to Claims 1, 7, and 20 above, and further in view of Haung (US 2004/0259586).

Regarding Claims 3, 9, and 22, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claims 1, 7, and 20. Childress further teaches indicating, via a/the push-to-talk indicator, that a/the user of the wireless device may not provide audio for transmission (Column 12 lines 19 – 33, the audible beep is the push-to-talk indicator).

Lampe in view of Childress and in further view of Spayth does not teach a push-to-talk backlit button that is lit in red color.

Haung teaches a backlit button that is lit in red color (Section 0021, Section 0027 lines 1 – 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the PTT button of Lampe in view of Childress and in further view of Spayth with the backlight circuitry of Haung for the purpose of identifying said button, when using the transceiver in the dark or at night, more easily as taught by Huang.

Regarding Claim 4, Lampe in view of Childress in view of Spayth and in further view of Huang teaches all of the claimed limitations recited in Claim 3. Lampe further teaches indicating, via a push-to-talk indicator, that user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the alert tone is the indicator). Huang further teaches a backlit button that is lit in green color (Section 0021, Section 0027).

Regarding Claim 23, Lampe in view of Childress in view of Spayth and in further view of Huang teaches all of the claimed limitations recited in Claim 22. Lampe further teaches indicating, via the push-to-talk indicator, that user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the alert tone is the indicator). Huang further teaches a backlit button that is lit in a green color (Section 0021, Section 0027 lines 1 – 2).

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7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lampe (5,568,511) in view of Childress et al. (4,658,435) in view of Spayth (4,013,958) as applied to Claim 7 above, and further in view of Haung (US 2004/0259586).

Regarding Claim 10, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claim 7. Lampe further teaches indicating, via the push-to-talk indicator, that the user of the wireless device may provide audio for transmission (Column 6 lines 54 – 57, the alert tone is the indicator).

Lampe in view of Childress and in further view of Spayth does not teach a push-to-talk backlit button that is lit in green color.

Haung teaches a backlit button that is lit in green color (Section 0021, Section 0027 lines 1 – 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the PTT button of Lampe in view of Childress and in further view of Spayth with the backlight circuitry of Haung for the purpose of identifying said button, when using the transceiver in the dark or at night, more easily as taught by Huang.

8. Claims 17 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampe (5,568,511) in view of Childress et al. (4,658,435) in view of Spayth (4,013,958) as applied to Claim 11 above, and further in view of Huang (US 2004/0259586).

Regarding Claim 17, Lampe in view of Childress and in further view of Spayth teaches all of the claimed limitations recited in Claim 11. Lampe further teaches a

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push-to-talk indicator (Column 6 lines 54 – 57, the alert tone is the push-to-talk indicator).

Lampe in view of Childress and in further view of Spayth does not teach a push-to-talk indicator comprising any one of: a graphic; a text message; a light emitting device; and a button.

Huang teaches an indicator comprising a button (Section 0021, Section 0027 lines 1 – 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the PTT button of Lampe in view of Childress and in further view of Spayth with the backlight circuitry of Huang for the purpose of identifying said button, when using the transceiver in the dark or at night, more easily as taught by Huang.

Regarding Claim 18, Lampe in view of Childress in view of Spayth and in further view of Huang teaches all of the claimed limitations recited in Claim 17. Childress further teaches indicating, via a push-to-talk indicator, that a user of the wireless device may not provide audio for transmission (Column 12 lines 19 – 33, the audible beep is the push-to-talk indicator). Huang further teaches an indicator emitting a red colored light (Section 0021, Section 0027 lines 1 – 2).

Regarding Claim 19, Lampe in view of Childress in view of Spayth and in further view of Huang teaches all of the claimed limitations recited in Claim 17. Lampe further teaches indicating that user of the wireless device may provide audio for transmission

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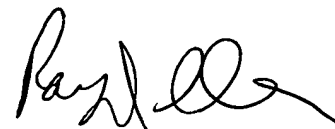
(Column 6 lines 54 – 57, the alert tone is the indicator). Huang further teaches an indicator emitting a green colored light (Section 0021, Section 0027 lines 1 – 2).


Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond S. Dean whose telephone number is 571-272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Raymond S. Dean
May 17, 2006


5-23-2006

NGUYEN T. VO
PRIMARY EXAMINER